

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

LEHIGH UNIVERSITY

and

HOLLY FERENO

**Cases 04-CA-243399
04-CA-247234**

ORDER¹

The General Counsel's request for special permission to appeal from Deputy Chief Administrative Law Judge Arthur J. Amchan's November 19, 2020 Order from the bench approving an undisclosed non-Board agreement and the withdrawal of the charges, and dismissing the complaint, as well as his written November 23, 2020 Order remanding this proceeding to the Regional Director, is granted. On the merits, the appeal is also granted.

The General Counsel argues that the judge improperly issued the above orders without allowing the General Counsel an opportunity to review the terms of the agreement reached by the Respondent and the Charging Party. Thus, the General Counsel had no basis for formulating a position regarding the agreement for consideration by the judge, the Regional Director, and the Board. In *Independent Stave Co.*, 287 NLRB 740, 743 (1987), the Board set forth several factors, including the position of the General Counsel, to be examined in determining whether to approve settlement agreements. We find that by foreclosing the General Counsel's review of the agreement and instead focusing primarily on a single other factor, the nature of the

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

alleged violations, i.e., violations of Section 8(a)(1) in the absence of discharges or an organizing campaign, the judge abused his discretion.

We further find that the judge abused his discretion by remanding the proceeding to the Regional Director after approving the withdrawal of the charges and the dismissal of the complaint, but without any direction concerning the purpose of the remand.

Therefore, we remand the proceeding to the judge for further appropriate action, including, if appropriate, the resumption of settlement discussions not dependent on the nondisclosure to the General Counsel, the Regional Director, or the Board of the terms of any final agreement.

Dated, Washington, D.C., February 11, 2021.

LAUREN McFERRAN,	CHAIRMAN
WILLIAM J. EMANUEL,	MEMBER
JOHN F. RING,	MEMBER